

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Michael Mastalski 2199 W. 104 th Street Cleveland, Ohio 44102,))) Case No: 1:12-cv-1293
)) JURY DEMAND REQUESTED
Plaintiff, v.)) CIVIL COMPLAINT
)) (Unlawful Debt Collection Practices)
Mercantile Adjustment Bureau, LLC c/o National Registered Agents, Inc. 145 Baker Street Marion, OH 43302,))))))))))
Defendant.)	

COMPLAINT

PLAINTIFF Michael Mastalski (Plaintiff), by his attorneys, KAHN AND ASSOCIATES, L.L.C., alleges the following against DEFENDANT Mercantile Adjustment Bureau, LLC (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy," and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.

3. Because Defendant conducts business in Ohio, personal jurisdiction is established.
4. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.

PARTIES

5. Plaintiff is a natural person who resides in, Cuyahoga County, Ohio and is allegedly obligated to pay a debt, and Plaintiff is a "consumer" as that term is defined by *15 U.S.C. 1692a(3)*.
6. Pursuant to the definitions outlined in *15 U.S.C. 1692a(1-6)*, Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
7. Defendant is New York business entity and a debt collector with an office in Williamsville, New York.
8. Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by *15 U.S.C. § 1692a(6)*.
9. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

10. Starting in late 2011, Defendant often telephoned Plaintiff multiple times daily at his phone number, 216.281.8530, seeking contact with individuals unknown to Plaintiff, and specifically an individual identified as Nicole Scott, as relates to

collection of alleged consumer debt. Defendant has also sent correspondence to Plaintiff, and Plaintiff has responded in writing that no such person(s) reside at his address or are otherwise known to him.

11. Plaintiff has advised Defendant representative(s) that no one by the name(s) requested live at or can be accessed via his phone number and mailing address, and has further asked that Defendant remove his number from its contact list.
12. Despite Plaintiff's requests that Defendant discontinue its errant calls and contacts to his home, Defendant continues to place daily calls to Plaintiff.
13. Defendant's ongoing calls and contacts, after being advised that it was calling the wrong number and asked to cease further contact, both verbally and in writing via counsel, were made with the intent to harass and annoy Plaintiff as the call recipient.

COUNT I

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

14. Defendant violated the FDCPA based on the following:
 - a. Defendant violated §1692d by engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.
 - b. Defendant violated §1692d(5) by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.
 - c. Defendant violated §1692c(c) by failing to cease further

communications with the consumer after being notified in writing that the consumer refuses to pay the debt or that the consumer wishes the debt collector to cease further communication.

WHEREFORE, Plaintiff, Michael Mastalski, respectfully requests judgment be entered against Defendant, for the following:

15. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
16. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
17. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, Michael Mastalski, requests a jury trial in this case.

Respectfully submitted,

KAHN & ASSOCIATES, LLC

/s/ *David W. Skall*

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